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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

HELPERICH PATENT LICENSING, L.L.C., )  
an Illinois Limited Liability Company, )  
Plaintiff, )

vs. )

ASUSTEK COMPUTER INCORPORATED, )  
a corporation of the Republic of China; and )  
ASUS COMPUTER INTERNATIONAL, )  
a California corporation, )  
Defendants. )

No. \_\_\_\_\_

**COMPLAINT**

(Jury Trial Demanded)

FILED: OCTOBER 1, 2008  
08CV5605

JUDGE CASTILLO

MAGISTRATE JUDGE VALDEZ

TC

Plaintiff Helferich Patent Licensing, L.L.C. ("HPL") complains against defendants  
ASUSTeK Computer Inc. and ASUS Computer International (hereinafter, collectively,  
"ASUS") as follows:

1           1.       This action arises under the Patent Laws of the United States, 35 United  
2 States Code. This Court has jurisdiction of this action under 28 U.S.C. § 1338(a).

3           2.       This action was originally filed on September 10, 2008 and was given  
4 cause number 08-cv-5189, assigned to Judge Castillo. On September 22, 2008, Judge  
5 Castillo issued a minute entry dismissing the action without prejudice *sua sponte* for lack  
6 of jurisdiction and venue. *See* Dkt. 10. In that order, the Court invited plaintiff to refile  
7 with allegations establishing jurisdiction and venue by mid-December 2008, and granted  
8 permission for plaintiff to conduct discovery to gather the necessary facts.

9           Plaintiff Helferich Patent Licensing alleged in the initial complaint that defendants  
10 sold infringing product in this district, intending those allegations to establish both  
11 personal jurisdiction and venue, which are coextensive under 28 U.S.C. §§ 1391(c) and  
12 1400(b). *See* ¶ 5, below. However, in compliance with Judge Castillo's order, HPL has  
13 alleged additional facts establishing jurisdiction and venue in ¶ 6, below.

14           3.       HPL did not immediately re-file the Complaint because HPL was  
15 negotiating with Asustek for a resolution of the dispute reflected in the Complaint. On  
16 September 24, 2008, HPL had a lengthy teleconference with counsel for Asustek during  
17 which HPL understood that the parties had reached the outlines of a resolution. Asustek  
18 requested time to review the proposal with certain management personnel who were not  
19 then available. Unbeknownst to HPL, Asustek filed a declaratory judgment action  
20 against HPL the next day, September 25, 2008, in California. *See* Asustek Computer Inc.  
21 and Asus Computer International v. Helferich Patent Licensing, L.L.C.. No. 08-4493  
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1 (U.S. District Court, N.D. Cal). HPL learned that the California action had been filed  
2 quite by chance.

3 4. Helferich Patent Licensing, L.L.C. is an Illinois limited liability company  
4 and the exclusive licensee of a portfolio of patents duly and legally issued to Richard J.  
5 Helferich for the inventions claimed therein, and relating to wireless communication and  
6 messaging, and the provision of media and content to wireless subscribers. Relevant  
7 issued patents include (collectively, the "Subject Patents"):

- 8 • U.S. Patent No. 7,403,787, titled "Paging Transceivers and Methods for  
9 Selectively Retrieving Messages," issued on July 22, 2008;
- 10 • U.S. Patent No. 7,376,432, titled "Paging Transceivers and Methods for  
11 Selectively Retrieving Messages," issued on May 20, 2008;
- 12 • U.S. Patent No. 7,280,838, titled "Paging Transceivers and Methods for  
13 Selectively Retrieving Messages," issued October 9, 2007;
- 14 • U.S. Patent No. 7,277,716, titled "Systems and Methods for Delivering  
15 Information to a Communication Device," issued October 2, 2007;
- 16 • U.S. Patent No. 7,242,951, titled "Paging Transceivers and Methods for  
17 Selectively Retrieving Messages," issued July 10, 2007;
- 18 • U.S. Patent No. 7,155,241, titled "Systems and Methods for Enabling a  
19 User of a Communication Device to Manage Remote Information," issued  
20 December 26, 2006;
- 21 • U.S. Patent No. 7,146,157, titled "Systems and Methods for Downloading  
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Information to a Mobile Device,” issued December 5, 2006;

- U.S. Patent No. 7,039,428, titled “System and Method for Delivering Information to a Transmitting and Receiving Device,” issued May 2, 2006;
- U.S. Patent No. 7,003,304, titled “Paging Transceivers and Methods for Selectively Retrieving Messages,” issued February 21, 2006;
- U.S. Patent No. 6,983,138, titled “User Interface for Message Access,” issued January 3, 2006;
- U.S. Patent No. 6,826,407, titled “System and Method For Integrating Audio and Visual Messaging,” issued November 30, 2004;
- U.S. Patent No. 6,696,921, titled “Transmitting and Receiving Devices and Methods for Transmitting Data to and Receiving Data from a Communications System,” issued February 24, 2004;
- U.S. Patent No. 6,636,733, titled “Wireless Messaging System,” issued October 21, 2003;
- U.S. Patent No. 6,462,646, titled “Transmitting and Receiving Devices and Methods for Transmitting Data to and Receiving Data from a Communication System,” issued October 8, 2002;
- U.S. Patent No. 6,459,360, titled “Paging Transceivers and Methods for Selectively Erasing Information,” issued October 1, 2002;
- U.S. Patent No. 6,259,892, titled “Pager Transceivers and Methods for Performing Action on Information at Desired Times,” issued July 10, 2001;

- 1           • U.S. Patent No. 6,253,061, titled “Systems and Methods for Delivering
- 2           Information to a Transmitting and Receiving Device,” issued June 26,
- 3           2001;
- 4           • U.S. Patent No. 6,233,430, titled “Paging Transceivers and Methods for
- 5           Selectively Retrieving Messages,” issued May 15, 2001;
- 6           • U.S. Patent No. 6,097,941, titled “User Interface for Voice Message
- 7           Access,” issued August 1, 2000;
- 8           • U.S. Patent No. 6,087,956, titled “Paging Transceivers and Methods for
- 9           Selectively Erasing Information,” issued July 11, 2000.

10  
11 U.S. Patent Nos. 6,087,956, 6,233,430, 7,146,157, 7,280,838 and 7,376,432 are,  
12 collectively, the “Asserted Patents.”

13           Helferich Patent Licensing, L.L.C. is also the exclusive licensee of a  
14 portfolio of patent applications naming Richard J. Helferich as inventor relating to  
15 wireless communication and messaging. The relevant pending applications include  
16 (collectively, the “Subject Applications”):

- 17           • U.S. Patent Application No. 12/167,971, titled “System and Method for
- 18           Delivering Information to a Transmitting and Receiving Device;”
- 19           • U.S. Patent Application No. 11/635,781, titled “Paging Transceivers and
- 20           Methods for Selectively Retrieving Messages;”
- 21           • U.S. Patent Application No. 11/598,832, titled “Systems and Methods for
- 22           Downloading Information to a Mobile Device;”

- 1           • U.S. Patent Application No. 11/598,202, titled “Wireless Messaging
- 2           System;”
- 3           • Allowed U.S. Patent Application No. 11/399,513, titled “System and
- 4           Method for Delivering Information to a Transmitting and Receiving
- 5           Device;”
- 6           • U.S. Patent Application No. 11/105,441, titled “Systems and Methods for
- 7           Adding Information to a Directory Stored in a Mobile Device;”
- 8           • U.S. Patent Application No. 10/958,731, titled “System and Method for
- 9           Integrating Audio and Visual Messaging.”
- 10

11 HPL is the exclusive licensee of all right, title and interest in the Subject Patents and  
12 Applications, including the right to sue for past damages.

13           5. Defendant ASUSTeK Computer Inc. is a corporation established under the  
14 laws of the Republic of China and based in Taiwan. ASUS Computer International is a  
15 corporation established under the laws of the State of California and based in Fremont,  
16 California, and is a wholly owned subsidiary of ASUSTeK Computer Inc.. ASUSTeK  
17 Computer Inc., including through its subsidiary ASUS Computer International,  
18 manufactures or sells wireless electronic devices such as cellular telephones, including  
19 selling or offering to sell such devices (including the accused devices) within this judicial  
20 district and by conducting other business within this judicial district or elsewhere in the  
21 United States that impacts this jurisdiction.  
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1           6.     Venue is appropriate in this District under 35 U.S.C. §§ 1391(c) and  
2     1400(b), and personal jurisdiction is established, because both defendants reside in this  
3     district based upon acts of infringement in this district. Specifically, defendants have  
4     caused infringing devices to be sold in the Northern District of Illinois by delivering such  
5     devices into the stream of commerce with the expectation that they will be purchased by  
6     consumers herein, including but not limited to through defendants' established  
7     distribution relationship with ASI, an electronics distributor with an office in Itasca,  
8     Illinois, that sells or offers for sale infringing ASUS devices.

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10           7.     Within the United States, ASUS has manufactured, used, sold or offered for  
11     sale devices used for short message service ("SMS") messaging, web browsing, and  
12     multimedia (e.g., picture) messaging ("MMS") and covered by at least claims 44 and 46  
13     of the '956 Patent, claims 19, 44 and 45 of the '430 Patent, claims 2 and 3 of the '157  
14     Patent, claims 34 and 35 of the '838 Patent, and claims 1 and 8 of the '432 Patent,  
15     including, for example, the models known as J501, J502, M303, M307, M310, M530w,  
16     M930, P320, P505, P525, P526, P527, P535, P550, P735, P750, V55, V66, V75, V80,  
17     V88i, Z801, and Z810.

18           8.     In the six-year period preceding the filing of this action, defendants have  
19     infringed the Asserted Patent in violation of 35 U.S.C. § 271 with resultant damage to  
20     HPL, in an amount to be proven at trial.

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22           9.     HPL gave written notice to ASUS of the Asserted Patents by letter dated  
23     April 11, 2008, which letter included a detailed explanation of the Asserted Patents and  
24     the manner in which they were infringed by exemplary ASUS products. In response to

1 HPL's notice letters and infringement assertions sent to other manufacturers of cellular  
2 phones, one major manufacturer of wireless electronic technology, LG Electronics, Inc.,  
3 entered into a license agreement with HPL. HPL also offered to meet face to face with  
4 ASUS in America, Hawaii, Korea and Japan to address the issues raised by this  
5 Complaint, but ASUS refused. During several month's correspondence, ASUS never  
6 presented any substantive defense to HPL's allegation that ASUS infringed the Asserted  
7 Patents. ASUS' last communication to HPL was on July 8, 2008, at which time ASUS  
8 stated that further discussion was needed; however, ASUS did not accept HPL's  
9 subsequent invitations for telephonic or in person meetings to address any issues ASUS  
10 had. To date, no further response from ASUS has been received.

12 10. Thus, Defendants, with actual knowledge of the Asserted Patents and  
13 without lawful justification, willfully and deliberately infringed the Asserted Patents.

14 **WHEREFORE, HPL PRAYS FOR:**

15 (a) Judgment on the Complaint that Defendants have infringed, contributed to  
16 the infringement of, or actively induced others to infringe U.S. Patent Nos. 6,087,956,  
17 6,233,430, 7,146,157, 7,280,838 and 7,376,432;

18 (b) A permanent injunction to be issued enjoining and restraining Defendants,  
19 and their officers, directors, agents, servants, employees, attorneys, licensees, successors,  
20 assigns, and those in active concert and participation with them, and each of them, from  
21 making, using, selling, offering for sale, or importing any products which fall within the  
22 scope of any or all claims of the Asserted Patents, and from inducing or contributing to  
23 the infringement of any such claims by others;  
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1 (c) An award of damages against Defendants adequate to compensate HPL for  
2 past infringement of the Asserted Patents, together with interest and costs as fixed by the  
3 Court, such damages to be trebled because of the willful and deliberate character of the  
4 infringement;

5 (d) Judgment that this case is “exceptional” in the sense of 35 U.S.C. § 285,  
6 and that HPL is entitled to an award of its reasonable attorneys’ fees in the prosecution of  
7 this action; and  
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9 (e) Such other and further relief as the Court may deem just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby makes a demand for a trial by jury pursuant to Rule 38 of the  
12 Federal Rules of Civil Procedures as to all issues in this lawsuit.

13 RESPECTFULLY SUBMITTED this 1st day of October, 2008.

14 VICTORIA GRUVER CURTIN, P.L.C..

15  
16 By: /s/Victoria Curtin  
17 Victoria Curtin  
18 Attorneys for Plaintiff  
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